

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 839 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No

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LABHUBHAI RAVJIBHAI PATEL

Versus

STATE OF GUJRAT  
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Appearance:

MR MB KYADA for Petitioner  
MR. SP DAVE, AGP for Respondent No. 1  
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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 26/02/97

ORAL JUDGEMENT

1. Upon hearing learned counsel Mr. Kyada for the petitioner and learned Government counsel Mr. S.P. Dave, the present petition requires recognition and the rule requires to be made absolute.

2. I am concerned with the orders passed by the

Gujarat Revenue Tribunal on November 22, 1996. These orders are in respect of the Revision Application No. T.E.N.B.S. 12 of 1991. The State of Gujarat happened to be the applicant in the above said proceedings and the orders passed some where in May 1983 were sought to be challenged in the above said proceedings. Along with the revision application there was a separate application submitted by the applicant - State for the condonation of the delay. There are no separate orders on this application for the condonation of delay. Anyhow, under the above said impugned orders, the Revision Application filed by the State came to be allowed and the earlier orders passed in 1981 came to be quashed and set aside.

3. Learned counsel Mr. Kyada for the petitioner urges that as a matter of fact the above said proceedings were commenced and completed behind the back of the petitioner. There is, of course, a recital in the orders of the Tribunal at paragraph 3 that the opponents No. 1 and 2 had remained absent though served and the opponents No. 3 and 4 were the formal parties. Despite this, learned counsel Mr. Kyada placing reliance upon the say of the petitioner in the affidavit urges that at any point of time no notice came to be issued and served upon the petitioner. Learned Government counsel Mr. Dave was not in a position to combat with the contention coming from Mr. Kyada. It shall have to be appreciated that the say of the Tribunal that opponents No. 1 and 2 had remained absent though served, cannot be accepted. It would therefore be clear that the revision application which was required to be decided on merits after the orders of condoning delay, came to be allowed and the orders cannot be quashed and set aside by the Tribunal behind the back of the petitioner without affording him a reasonable opportunity of being heard. The said orders therefore being violative of the principles of natural justice require to be quashed and set aside and I order accordingly.

4. The revision application along with the application for the condonation of delay shall stand transmitted to the Gujarat Revenue Tribunal for decision according to law and on merits after affording reasonable opportunity of being heard to the parties.

5. There are several contentions in the memo of the petition. I have no opinion of mine to express on the same and all the contentions and the counter contentions shall have to be decided by the Tribunal as indicated above. Rule is made absolute accordingly with no order as to costs.

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